

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

DAVID FOSCUE, et ux.,)
PLAINTIFFS,) Case No.: 12-7491
) MDL Docket No. 2158
v.)
) Assigned to: Hon. Susan D. Wigenton
ZIMMER INC., et al,)
)
DEFENDANTS.)
)
)

**REPLY IN SUPPORT OF MOTION FOR
COURT-ASSISTED SETTLEMENT CONFERENCE**

The first court-assisted settlement conference in this case was held on May 12, 2014, before four Durom Cup cases were tried to verdict, and exactly two years before this Court enacted the Global Settlement Program (the “GSP”). (See May 12, 2014, Minute Entry, 2:12-cv-07491; Settlement Case Management Order dated May 13, 2016, MDL Dkt. 925). The GSP ordered by this Court imposes specific requirements for in-person attendance that Plaintiffs have not met—unlike nearly all other Plaintiffs in the MDL, resulting in settlement of 95% of eligible claims in the MDL. Indeed, the day before the June 23, 2017, mediation, Zimmer learned that Plaintiff and their counsel would not attend in-person. While Zimmer’s counsel nevertheless traveled to Chicago and attended in-person, given the last-minute notice that no one would attend from the Plaintiff’s side, Zimmer’s counsel told Zimmer’s representative to change his plans and be available by phone instead of in-person. Zimmer simply requests that Plaintiffs be bound by the same requirements with which nearly all other Plaintiffs in this MDL have complied. And, given their continued efforts to oppose these requirements, Zimmer submits that a court-assisted settlement conference is necessary at this time.

Dated: March 5, 2019

Respectfully submitted,

FAEGRE BAKER DANIELS LLP

/s/ J. Joseph Tanner

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Zimmer Biomet Holdings, Inc., and Zimmer US, Inc.

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing document has been served upon all counsel of record via ECF this 5th day of March, 2019.

/s/ J. Joseph Tanner